

Glyphosate Litigation Takes Criminal Turn

Article By:

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Two name-partners in a plaintiff firm based in Richmond, Virginia were sentenced to one and two year prison terms for pleading guilty to attempting to extort an unnamed chemical company of \$200 million. Based on marketing information found on the firm website for these attorneys, their practices focus on representing plaintiffs in litigation against Monsanto Co. for manufacturing and selling RoundUp. Glyphosate, the active ingredient in RoundUp, has been classified as a Group 2A probable human carcinogen by the World Health Organization (WTO) and sparked mass litigation against Monsanto, including multi-million dollar verdicts in California.

The guilty pleas by both attorneys, however, did not identify the name of the company that they attempted to extort by threatening to release information and cause litigation that would drastically drop the company's stock price if the company did not pay the attorneys a consulting fee. The Virginia State Bar's Professional Guidelines Rule 3.4(i) indicates: "[a] lawyers shall not [p]resent or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter." Companies that put a product into the stream of commerce should anticipate feedback (both good and bad), and potentially claims alleging damaged/defective products. However, the attorneys here posed their feedback as a shakedown. The Commonwealth of Virginia found the conduct went beyond the bounds of ethical (and legal) conduct.

Monsanto denies that it was the company that the two attorneys in Virginia attempted to extort, and it denies any link between RoundUp and cancer given the EPA's finding that rebukes the WHO classification. Separate and apart from the above, Monsanto is currently in the process of finalizing a global settlement that would resolve most of their cases involving RoundUp. Companies that are involved in the stream of commerce, including purchasers of RoundUp, should heed this development as a microcosm of the lengths that plaintiff attorneys will go to continue the RoundUp litigation. The State of New York recently banned the use of glyphosate on state properties as an environmental precaution; however, the move could have also been aimed at curbing potential lawsuits now that Monsanto is resolving the bulk of its litigation, which would leave a void in the revenue stream for plaintiff attorneys and their future claimants.

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